

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

	X	
M&B IP ANALYSTS, LLC,	:	CIVIL ACTION
	:	Index No.: 2:19-cv-00429
Plaintiff,	:	
	:	
-against-	:	COMPLAINT
	:	
CORTICA-US, INC., and	:	
CORTICA, LTD.,	:	
	:	Jury Trial Demanded
Defendants.	:	
	X	

Plaintiff M&B IP ANALYSTS, LLC (“M&B”), by its attorneys Allyn & Fortuna LLP, alleges as follows:

1. This Court has original jurisdiction over this action pursuant to 28 U.S. Code § 1332.
2. The amount in controversy in this matter, exclusive of costs and interest, is in excess of the jurisdiction requirement of 28 U.S. Code § 1332.
3. M&B is a limited liability corporation with its principal place of business in the State of New Jersey. The members of M&B are Michael Ben-Shimon, a legal permanent resident of the State of New Jersey, and Brian Myers, a citizen of the State of New Jersey.
4. Defendant CORTICA-US, INC. is a citizen of the State of Delaware because it is a corporation incorporated in the State of Delaware.
5. Defendant CORTICA, LTD. is a citizen of Israel with its principal place of business located at 103 Allenby Street, 4th Floor, Tel Aviv, Israel.
6. Venue is proper in this Court as the M&B’s primary place of business is located within the District of New Jersey.

7. Upon information and belief, Cortica-US, Inc. is a wholly-owned subsidiary of Cortica, Ltd. (hereinafter collectively referred to as “Cortica”).

8. M&B was founded in 2014 by Michael Ben-Shimon and Brian S. Myers. Mr. Ben-Shimon is a patent agent registered to practice before the United States Patent and Trademark Office (USPTO). Mr. Ben-Shimon holds two Bachelor of Science degrees in computer science and physics and has more than 15 years of experience as a patent agent and IP analysts.

9. M&B employs a number of patent professionals with the technological, scientific, and business knowledge to assist clients with patent prosecutions and related services.

10. M&B’s clients include start-up businesses in the cutting-edge fields of, *inter alia*, cyber security, cloud computing, fintech, ad-tech, e-commerce, IoT, wireless communications, storage networks and systems, mechanical and electro-mechanical systems, automotive, clean tech, semiconductors, materials, medical devices, digital health, and bio-tech.

11. On behalf of clients, M&B uses its technological and scientific background to draft patent applications, file patent applications with the USPTO, and respond to USPTO Office action and communications. M&B also assists clients with patent annuity monitoring and maintenance.

12. M&B has an international presence and has assisted clients from all over the world with United States patents. M&B also assists clients and coordinates international application filings.

13. On or about April 2014, Cortica directly engaged M&B to file patents with the USPTO, coordinate filing in various jurisdictions, prosecute patent applications with the USPTO, and perform annuity monitoring and maintenance on its behalf.

14. Upon information and belief, ultimate title over all Cortica patents and patent applications vested in Cortica, Ltd.

15. M&B performed a variety of patent prosecution services from April 2014 through April 2018, including the direct payment of filing fees and maintenance fees to the USPTO on Cortica's behalf.

16. Cortica approved and explicitly authorized all work performed by M&B on Cortica's behalf.

17. M&B provided Cortica with the highest quality patent prosecution services throughout the entire term of their relationship.

18. In April 2018, Cortica informed M&B that it was transitioning its patent operation in house and would no longer utilize M&B's services, but acknowledged the high quality of M&B's work over the past four years.

19. While M&B assisted Cortica with the transition to new patent representation, M&B responded to USPTO office actions and paid patent annuity fees at Cortica's request through June 2018.

20. M&B sent Cortica regular invoices for its services and disbursements from April 2014 through June 2018.

21. Cortica made periodic payments in response to invoices from M&B from April 2014 through May 2017.

22. Even though Cortica delayed payments starting in June 2017, M&B timely filed all patent applications and paid all required USPTO fees.

23. As of June 2018, Cortica owed M&B an outstanding balance of \$275,143.00 dating back to June 1, 2017. Of the total open balance, \$64,643.00 represented disbursements paid directly to the USPTO by M&B on behalf of Cortica.

24. Cortica acknowledged the open balance to M&B and promised to pay.

25. Despite M&B's repeated requests for payment, Cortica has failed to pay any part of the open balance, which M&B has duly demanded.

AS AND FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

26. M&B repeats and reiterates each and every allegation set forth in Paragraphs 1 through 25 herein.

27. In or about April 2014, M&B and Cortica entered into a contract for the provision of patent prosecution services.

28. Pursuant to the contract, Cortica agreed to pay M&B for patent prosecution services described herein and to reimburse M&B for disbursements made directly to the USPTO and other vendors on its behalf.

29. From April 2014 through June 2018, M&B performed under the contract by providing high quality patent prosecution services on Cortica's behalf and at Cortica's express direction.

30. From June 1, 2017 through June 2018, M&B invoiced Cortica for services in the amount of \$210,500.00 and disbursements in the amount of \$64,643.00.

31. Cortica breached its contract with M&B by not paying any part of the total \$275,143.00.

32. As a result of Cortica's breach, M&B has been damaged in the amount of \$275,143.00.

AS AND FOR A SECOND CAUSE OF ACTION
(Quantum Meruit)

33. M&B repeats and reiterates each and every allegation set forth in Paragraphs 1 through 32 herein.

34. M&B performed patent prosecution services in the amount of \$210,500.00 and made disbursements in the amount of \$64,643.00 directly to the USPTO and other vendors on Cortica's behalf in good faith.

35. M&B reasonable expected to be compensated for its services and reimbursed for the disbursements by Cortica.

36. Cortica accepted the benefit of M&B's service and disbursements.

37. Cortica has refused to pay M&B for its services or reimburse M&B for disbursements made on Cortica's behalf.

38. As a result, Cortica has been unjustly enriched in the amount of \$275,143.00.

AS AND FOR A THIRD CAUSE OF ACTION
(Account Stated)

39. M&B repeats and reiterates each and every allegation set forth in Paragraphs 1 through 38 herein.

40. M&B performed patent prosecution services on behalf of Cortica between April 2014 and June 2018. Cortica expressly approved and authorized M&B's services.

41. M&B disbursed fees to the USPTO and other vendors on behalf of Cortica between April 2014 and June 2018. Cortica expressly approved and authorized M&B's disbursement of fees on its behalf.

42. M&B sent invoices for its services rendered and disbursements paid between June 1, 2017 and June 2018 to Cortica, which Cortica received and acknowledged.

43. M&B's invoices for services were in the amount of \$210,500.00 and for disbursements in the amount of \$64,643.00, for a total of \$275,143.00.

44. Cortica did not dispute the invoices and promised to pay M&B for its services and disbursements.

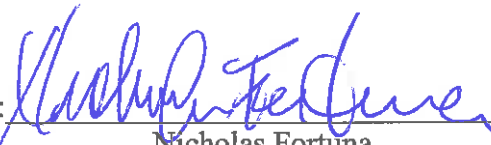
45. Cortica has not paid the invoices or disbursements, despite M&B's repeated demands.

46. As a result, M&B has been damaged in the amount of \$275,143.00.

WHEREFORE, Plaintiff M&B IP ANALYSTS, LLC respectfully requests that this Court issue a judgment in its favor on the causes of action, and award Plaintiff its reasonable attorneys' fees, expert fees, costs, and litigation expenses incurred in this action.

Dated: January 10, 2019

ALLYN & FORTUNA LLP

By: 
Nicholas Fortuna

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